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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91209617
Party	Defendant Debra Wiseberg
Correspondence Address	DEBRA WISEBERG d/b/a BRAM WARREN CO 18100 SW 50TH ST SOUTHWEST RANCHES, FL 33331 1012 UNITED STATES bramwarren@bramwarren.com
Submission	Opposition/Response to Motion
Filer's Name	Debra Wiseberg
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Signature	/Debra Wiseberg/
Date	07/31/2015
Attachments	Applicant's Response to Opposer's Motion for Suspension of Proceedings and Extension of Time.pdf(1502915 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Xikar, Inc.,	1	
	§	
	§	
Opposer,	§	Opposition No. 91209617
	§	
v.	§	Mark: Cicar
	§	
Debra Wiseberg d/b/a	§	Serial No. 85/652496
Bram Warren Company,	§	
	§	
Applicant.	§	
	↓	

APPLICANT’S RESPONSE TO OPPOSER’S MOTION  
FOR SUSPENSION OF PROCEEDINGS AND EXTENSION OF TIME

Debra Wiseberg, Applicant and Counterclaim Plaintiff (hereafter “Applicant”) hereby responds<sup>1</sup> to Xikar, Inc., a Kansas corporation, Opposer and Counterclaim Defendant’s (hereafter “Opposer”) motion for suspension of proceedings and extension of time. The Applicant does hereby consent to the Opposer’s request for a suspension of the proceedings and extension of time and has responded to a few statements made by the Opposer within their motion.

The Opposer’s counsel’s has made the following statements within their motion: 1) “Opposer sought the consent of Applicant with regard to this motion via telephone<sup>2</sup> but has been unable to reach the Applicant”, 2) “Opposer telephoned and left a message for Applicant to discuss her motion and request consent for this motion and has not heard back from Applicant”, and 3) Foot Note 1 “Notably, if Applicant had called or emailed Opposer’s counsel prior to filing, consent would have been given and the need for Applicant’s motion, Opposer’s response thereto and this motion could have been avoided”.

<sup>1</sup>The Opposer did not serve the Applicant their motion via email as they stated in their certificate of service and the parties have not agreed to service via email.

<sup>2</sup>The Opposer’s counsel left one telephone message for the Applicant.

It appears the Opposer's counsel is implying that I should be on call for this proceeding no matter the circumstances, even after I have filed a motion stating I was available. The Applicant filed a motion to suspend proceedings because I was unable to attend to this litigation proceeding during that interval of time and the filing of my motion informed both the Opposer and the Board of my unavailability.

The Opposer's counsel stated in their motion that the Applicant's motion, the Opposer's response to the Applicant's motion and the Opposer's motion could have been avoided if I had only contacted them before filing my motion, as if the suspension of proceedings and postponement of trial dates would somehow magically occur without a motion being filed. A motion needed to be filed in this matter in order to suspend proceedings and postpone the trial dates. There are multiple issues that must be handled before the testimony period begins and a suspension of proceedings and postponement of the trial dates was not only necessary, but the most efficient way to handle the situation. In addition, the Opposer has not consented to the Applicant's motion to suspend proceedings and verification of counterclaim fee paid as it pertains to the statutory counterclaim fee and has requested in their response to my motion that the Board require the Applicant to pay the statutory fee for filing a counterclaim a second time and yet they have stated that they consent to my motion (No. 3 on Page 2 of Opposer's brief in support of Opposer's motion for suspension of proceedings and extension of time). It appears to the Applicant that the Opposer's counsel doesn't understand the meaning of the word "consent", but I'm not surprised considering the Opposer's counsel essentially stated in answer to interrogatories the Applicant served the Opposer, that the meaning of "characteristics" and



“comprise”, “has not been defined and is not understood” and then proceeded to not answer such interrogatories.

Lastly, I find it interesting that James J. Kernell, Kyle D. Donnelly, and Arthur A. Chaykin are listed beneath Ms. Derusseau in almost every document filed by Ms. Deruseeau’s firm and Mr. Kernell is listed on every discovery response by the Opposer, as if it requires up to 4 attorneys to defend against one pro se litigant, yet when it suits Ms. Derusseau she is the one attorney familiar with this matter and discovery issues or as Ms. Derusseau puts it “most intimately involved in this opposition, especially with regard to discovery issues”.

Dated: July 31, 2015

Respectfully submitted,

By:   
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CERTIFICATE OF FILING

I hereby certify that the Applicant’s response to the Opposer’s motion for suspension of proceedings and extension of time was filed with the United States Patent and Trademark Office, Trademark Trial and Appeal Board by ESTTA on July 31, 2015.

By:   
Debra Wiseberg


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Applicant’s response to the Opposer’s motion for suspension of proceedings and extension of time was sent to the counsel for the

Opposer by the United States Postal Service, first class mail on July 31, 2015 to the following  
address:

Ginnie C. Derusseau  
Erickson, Kernell, Derusseau & Kleypas LLC  
8900 State Line Road, Suite 500  
Leawood, KS 66206

By:

  
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Debra Wiseberg